

REMARKS

Applicant is in receipt of the Office Action mailed January 27, 2006. Claims 1-16, 19-23, and 29-44 are pending in the case. Reconsideration of the present case is earnestly requested in light of the following remarks.

Section 103 Rejections

Claims 1-16, 19-23, and 29-44 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kley et al. (U.S. Patent No. 6,161,146, "Kley") in view of Inohara et al. (U.S. Patent No. 6,377,952, "Inohara"). Applicant respectfully disagrees.

Claim 1 recites:

1. A computer-implemented method for accessing data from a semaphore in a computer system, comprising:

including a first software component in a first application, wherein the first software component is operable to access data from the semaphore, wherein the semaphore is stored in a computer memory, wherein the semaphore is operable to store data of any of a plurality of different data types, wherein the data comprised in the semaphore has a first data type of the plurality of different data types, and wherein the plurality of different data types comprise two or more of:

- WAV file;
- numeric;
- text;
- tabbed text file;
- DSD file;
- formatted vector;
- formatted array; and
- tab delimited spreadsheet data;

executing the first application;

receiving a uniform resource locator (URL) which specifies a location of the semaphore, wherein URL is received in response to user input;

the first software component connecting to the computer memory using the location information;

the first software component accessing the data comprised in the semaphore; and

the first software component converting the data into a format useable by the first application after the first software component connects to the computer memory and receives the data.

The Office Action asserts that Kley discloses “A computer-implemented method for accessing data from a semaphore in a computer system, comprising: including a first software component in a first application, wherein the first software component is operable to access data from the semaphore, wherein the semaphore is stored in a computer memory, wherein the semaphore is operable to store data of any of a plurality of different data types, wherein the data comprised in the semaphore has a first data type of the plurality of different data types, and wherein the plurality of different data types comprise two or more of: WAV file; numeric; text; tabbed text file; DSD file; formatted vector; formatted array; and tab delimited spreadsheet data; and executing the first application”, citing col.4:32-41, col.7:30-58; and col.11:15-27.

However, Applicant notes that col.4:32-41 states that Kley’s GA system is implemented in a platform-independent programming language, such as Java. Col.7:30-58 discloses that the GA (group activity) system modules collectively control, synchronize, and provide access to the data files at the sever computer for a corresponding group activity, using the basic network services available with the network server and without any dedicated GA system processes running on the server computer, and that accesses to the data files at the server computer of a corresponding group activity are synchronized among the system users. More specifically, the cited passage discloses that this synchronized access to the data files is performed by accessing group checkout and locking synchronization files, and in some cases, group portion checkout and locking synchronization files, as well.

Nowhere does the cited text (or Kley in general) teach or suggest, or even mention, semaphores. Applicant notes that there are numerous ways to control and synchronize access to data besides semaphores, such as, for example, via a mutex, via an

interrupt mask with countdown, via a resource monitor, via smart queues or smart pointers, and so forth. Applicant respectfully submits that the Examiner has improperly speculated as to the particular approach used by Kley, and that Kley does not teach or suggest a semaphore as claimed. For example, nowhere does Kley mention a semaphore at all, and more specifically, Kley fails to disclose a *semaphore that is operable to store data of any of a plurality of different data types*, where the plurality of different data types include two or more of: WAV file, numeric, text, tabbed text file, DSD file, formatted vector, formatted array, and tab delimited spreadsheet data.

Col.11:15-27 reads:

Referring now to FIG. 3, the GA system module 144 also includes an editor 148. The user uses the editor in conjunction with the user interface to edit the selected data file 184 that was copied and decrypted so as to update it. This editor may be any type of program or application running on the client computer 102 that is capable of editing or modifying program code, text, graphic images, spreadsheets, etc. For example, the editor may be a word processor, program code compiler, paint or drawing program, spreadsheet program, charting program, project management program, presentation program, accounting program, business plan program, financial planning program, etc.

Applicant respectfully submits that this passage describing an editor is not germane to the features and limitations of claim 1, and does not address or even mention semaphores as claimed.

Thus, Applicant submits that Kley does not teach these features of claim 1.

The Office Action further asserts that Kley teaches "receiving a uniform resource locator (URL) which specifies a location of the semaphore, wherein URL is received in response to user input", citing col.13:34-36. However, the cited text actually reads:

Referring to FIGS. 5-7, there are shown additional embodiments of the present invention. In these embodiments, one or more of the client computers 102 includes a Web browser 192 stored in the memory system 136 of the client computer and which runs on the CPU 130 of the client computer. The information contained in the group checkout and progress tracking status files 170 and 174 of a group activity is used to provide a Web page (i.e., HTML document) 192 displayed by the Web browser 190. The Web page is downloaded by the Web browser to the client computer's memory system in response to commands issued by a system user with the user interface 134 to the Web browser.

As may be seen, the cited text is not directed to a URL that specifies the location of a semaphore (nor the URL being received in response to user input), but rather, describes creating a web page using information contained in the group checkout and progress tracking status files of a group activity, and downloading the web page to the client computer. Nowhere is a semaphore even mentioned, nor specifying a semaphore location via a URL, where the URL is received in response to user input. Thus, Applicant respectfully submits that Kley does not teach or suggest this limitation of claim 1.

Thus, Applicant submits that Kley fails to teach or suggest these limitations of claim 1.

The Office Action admits that Kley fails to disclose “the first software component converting the data into a format useable by the first application after the first software component connects to the computer memory and receives the data”, but asserts that Inohara remedies this admitted deficiency of Kley, citing the Abstract, and col.1:8-17.

As the Examiner is certainly aware, to establish a prima facie obviousness of a claimed invention, all claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974), MPEP 2143.03. Obviousness cannot be established by combining or modifying the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion or incentive to do so. In re Bond, 910 F. 2d 81, 834, 15 USPQ2d 1566, 1568 (Fed. Cir. 1990).

In addition, the showing of a suggestion, teaching, or motivation to combine prior teachings “must be clear and particular Broad conclusory statements regarding the teaching of multiple references, standing alone, are not ‘evidence’.” *In re Dembiczak*, 175 F.3d 994, 50 USPQ2d 1614 (Fed. Cir. 1999). The art must fairly teach or suggest to one to make the specific combination as claimed. That one achieves an improved result by making such a combination is no more than hindsight without an initial suggestion to make the combination.

Applicant respectfully submits that no proper motivation to combine has been provided from the references. For example, the cited text reads:

The present invention relates to a computer system, and more particularly to a file format conversion method for a file system which provides a user with information having a plurality of file formats. More specifically, the invention relates to a file format conversion method suitable for a plurality of computers to exchange over the world wide web (hereinafter called WWW) information having a plurality of file formats, and to a file system, various information processing systems, and an electronic commerce system respectively using the file format conversion method.

The cited passage describes data conversion for data exchange over the web (WWW), but is not relevant to the present invention as represented in claim 1. For example, nowhere does Inohara mention data comprised in a semaphore as claimed, nor does Inohara suggest the desirability of a *semaphore that stores data of any of a plurality of data types*. In fact, Inohara, like Kley, fails to even mention semaphores at all. Nor does Kley suggest the desirability of a *semaphore* that stores data of any of a plurality of data types, nor of converting the data comprised in the semaphore to a format useable by an application. The only motivation to combine Kley and Inohara suggested by the Examiner is "because doing so will help decrease processing time and increase transmission flow by making application more compatible among different platforms [*sic*]".

As stated in the MPEP §2143.01, "The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). . . Applicant submits that the Examiner has merely stated a presumed benefit of the combination, and that no motivation to combine is provided in the cited references, and so the suggested motivation is a result of hindsight analysis, which is improper. Thus, Kley and Inohara cannot properly be combined to make a prima facie case of obviousness.

Moreover, even were Kley and Inohara properly combinable, which Applicant argues they are not, the resulting combination would still not produce Applicant's invention as claimed, as argued at length above.

Thus, for at least the reasons presented above, Applicant respectfully submits that Kley and Inohara, taken singly or in combination, fail to teach all the features and

limitations of claim 1, and so claim 1 and those claims dependent therefrom are patentably distinct and non-obvious, and are thus allowable.

Independent claims 19, 29, 35, and 42 include similar limitations as claim 1, and so the above arguments apply with equal force to these claims. Thus, for at least the reasons provided above, claims 19, 29, 35, and 42, and those claims respectively dependent therefrom, are patentably distinct and non-obvious, and are thus allowable.

Removal of the section 103 rejection of claims 1-16, 19-23, and 29-44 is earnestly requested.

Applicant also asserts that numerous ones of the dependent claims recite further distinctions over the cited art. However, since the independent claims have been shown to be patentably distinct, a further discussion of the dependent claims is not necessary at this time.

CONCLUSION


Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 50-1505/5150-50200/JCH.

Also enclosed herewith are the following items:

☒ Return Receipt Postcard

Respectfully submitted,



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